

Appl. No. 10/601,036
Amdt. dated October 21, 2005
Reply to Office Action of September 27, 2005

PATENT

REMARKS/ARGUMENTS

After entry of this amendment, claims 60-68 and 74-77 are pending in this application, claims 1 and 69-73 having been withdrawn as being directed to a non-elected invention.

Restriction Requirement

The Examiner has required restriction to one of the following inventions:

- I. Claim 1, drawn to a method of screening drug candidates.
- II. Claims 60-68, 74-77, drawn to a method of assessing an individual's risk for a hyper-proliferative disorder by determining the level of KSP expression by determining the amount of nucleic acid encoding KSP.
- III. Claims 60-63, 69-76, drawn to a method of assessing an individual's risk for a hyper-proliferative disorder by determining the level of KSP expression by determining the amount KSP protein.

Applicants elect, with traverse, the invention of Group II (claims 60-68 and 74-77). The restriction requirement between groups II and III is traversed on the basis that the designated groups are in fact species of claim 60 and should be separated, if at all, by election of species rather than restriction. Applicants reserve the right, under 35 U.S.C. § 120, to pursue the non-elected inventions of Groups I and III in separate divisional applications.

Applicants respectfully request that if linking claim 60 is found allowable, then the Examiner will withdraw the restriction requirement between the linked inventions of Groups II and III, and claims depending from or otherwise including all the limitations of the allowable linking claim be entitled to examination in the instant application.

Species Election

The Examiner has required election of a single disclosed species.

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Applicants elect the species "(a) wherein the amount of nucleic acid is determined by the extent of binding to probes of a nucleic acid probe array" recited in claim 65.

Applicants respectfully request that if the generic claim is found allowable, then the Examiner will consider claims to additional species which are written in dependent form or otherwise include all of the limitations of the allowed generic claim.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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